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MICHAEL KODAK, JR., CLERK

No. 75-788

In the
Supreme Court of the United States
October Term 1975

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS,
WAREHOUSEMEN AND HELPERS OF AMERICA AND SOUTHERN
CONFERENCE OF TEAMSTERS,
Petitioners,

vs.

OLIVER I. SAEALA, INDIVIDUALLY AND ON BEHALF OF
ALL OTHERS SIMILARLY SITUATED, AND LEONARD M. RAMIREZ,
Respondents

ON PETITION FOR WRIT OF CERTIORARI

To the United States Court of Appeals
For the Fifth Circuit

REPLY TO RESPONDENTS' OPPOSITION

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REPLY TO RESPONDENTS' OPPOSITION

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (hereinafter "International") and Southern Conference of Teamsters (hereinafter "Southern Conference") respectfully reply to Respondents' Opposition to Petition for Writ of Certiorari as follows:

Respondents in their Opposition decline to acknowledge

or respond to the questions presented in this Petition. (See Opposition, p. 2.) Instead, Respondents fashion their own questions which reduce, at bottom line, to: whether Title 42 U.S.C. Section 1981 prohibits discrimination in employment?

Obviously, that is the purpose and effect of Section 1981. But it is equally obvious that this case presents no such simple issue.

Respondents' failure to address the questions of law presented in the Petition fatally infects their argument as to reasons for denying the Writ. Unable or unwilling to confront the important legal issues raised, they instead concoct false issues of fact.¹ (See Opposition, pp. 16-19.) The overriding² questions remain: whether an otherwise legal, bona fide seniority system illegally discriminates simply because it does not *automatically* grant seniority to employees whom an employer has discriminatorily excluded from the bargaining unit; and whether minority employees should, as a remedy, be granted seniority relief *greater* than that they would have had "but for" discrimination. Nothing in Respondents' Opposition detracts from the im-

¹ For example, Respondents argue that a majority of Houston city drivers desire merged city and road job seniority, when the trial court found to the contrary and refused to order merger. (App. A-25.) Similarly, they argue that applicable seniority rules are negotiated on a national rather than regional basis, when the Fifth Circuit has found to the contrary. See *Herrera vs. Yellow Freight Systems*, 505 F.2d 66 at 68, fn. 2 (5th Cir. 1974).

² Of no less importance is the conflict between the Fifth Circuit's holding in the instant case and that in *Herrera*, *supra* fn. 1. (See Petition, pp 15-16.)

portance of the legal issues thus presented, or warrants denial of this Petition.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Reply to Respondents' Opposition on Petition for Writ of Certorari have this day of January, 1976, been mailed, postage prepaid, to all counsel of record as follows:

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